

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ JUL 30 2014 ★

-----X
UNITED STATES OF AMERICA,

BROOKLYN OFFICE

-against-

NOT FOR PUBLICATION
MEMORANDUM & ORDER
07-CR-00587 (CBA)

TIMOTHY DONAGHY,

Defendant.

-----X
AMON, Chief United States District Judge.

On July 29, 2014, the government filed a letter requesting that the Court enter a restraining order pursuant to the All Writs Act, 28 U.S.C. § 1651(a), prohibiting the transfer or diminution of any property of defendant Timothy Donaghy currently held by the National Basketball Association Referees' Pension Plan (the "Pension Plan"). The government contends that a restraining order is necessary because Donaghy is scheduled to receive a lump sum payment from the Pension Plan of \$203,256.01 on August 1, 2014. According to the government, Donaghy still owes a total of \$153,631.22 in restitution to the National Basketball Association pursuant to his July 29, 2008 judgment of conviction.

The letter submitted by the government is insufficient to provide this Court with a basis to issue a restraining order. For this Court to consider the requested relief, the government must submit a sworn affidavit or affirmation attesting to the factual basis for restraining the Pension Plan from transferring or otherwise disposing of the assets in which Donaghy has an interest. In that affidavit, the government should also explain when it intends to seek the writ of garnishment referenced in its letter, and for how long it anticipates the restraining order will be necessary. The government should also explain what basis it has for seeking the restraint of the transfer of

the entirety of Donaghy's benefits held by the Pension Plan, rather than solely the amount of \$153,631.22 still owed as restitution.

SO ORDERED.

Dated: Brooklyn, N.Y.
July 30, 2014

s/Carol Bagley Amon
Carol Bagley Amon *U*
Chief United States District Judge